



Control Number: 48785



Item Number: 171

Addendum StartPage: 0

**PUC DOCKET NO. 48785
SOAH DOCKET NO. 473-19-1265**

APPROVED

APR 23 PM 1:15

CRISIS CENTER, U.S. FILE
FILING CLERK

**JOINT APPLICATION OF ONCOR
ELECTRIC DELIVERY COMPANY,
LLC AND AEP TEXAS, INC. TO
AMEND CERTIFICATES OF
CONVENIENCE AND NECESSITY
FOR A DOUBLE CIRCUIT 345-KV
TRANSMISSION LINE IN PECOS,
REEVES, AND WARD COUNTIES,
TEXAS (SAND LAKE –
SOLSTICE CCN)**

§
§
§
§
§
§
§
§
§

PUBLIC UTILITY COMMISSION

OF TEXAS

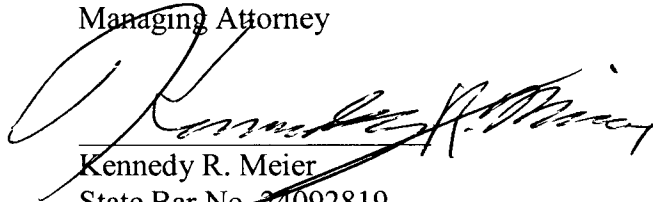
COMMISSION STAFF'S EXCEPTIONS TO THE PROPOSAL FOR DECISION

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney



Kennedy R. Meier
State Bar No. 24092819
Sarah D. McDaniel
State Bar No. 24092340
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7265
(512) 936-7268 (facsimile)
kennedy.meier@puc.texas.gov

APRIL 23, 2019

171

TABLE OF CONTENTS

I.	INTRODUCTION	3
II.	EXCEPTIONS	3
A.	Introduction and Summary	3
B.	Procedural History	4
C.	Jurisdiction and Notice.....	4
D.	Issues Relating to the Application	4
E.	Route Selection.....	4
F.	Texas Parks and Wildlife Department.....	6
G.	Other Issues	6
H.	Conclusion	7
I.	Findings of Fact	7
J.	Conclusions of Law	7
K.	Ordering Paragraphs	7
III.	CONCLUSION	7

**PUC DOCKET NO. 48785
SOAH DOCKET NO. 473-19-1265**

JOINT APPLICATION OF ONCOR	§	
ELECTRIC DELIVERY COMPANY,	§	PUBLIC UTILITY COMMISSION
LLC AND AEP TEXAS, INC. TO	§	
AMEND CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY	§	OF TEXAS
FOR A DOUBLE CIRCUIT 345-KV	§	
TRANSMISSION LINE IN PECOS,	§	
REEVES, AND WARD COUNTIES,	§	
TEXAS (SAND LAKE –	§	
SOLSTICE CCN)	§	

COMMISSION STAFF’S EXCEPTIONS TO THE PROPOSAL FOR DECISION

COMES NOW the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files these Exceptions to the Proposal for Decision. In support thereof, Staff shows the following:

I. INTRODUCTION

Staff is grateful for the reasoned consideration of the Administrative Law Judges’ (ALJs) Proposal for Decision (PFD).¹ This proceeding presented technical issues and competing interests, and the ALJs carefully considered each as set forth in the PFD. While Staff does not except to large portions of the PFD, Staff respectfully disagrees with the PFD’s recommendation that the Commission select Route 320, with a modification to Link B2,² as the route that best meets the requirements of Public Utility Regulatory Act³ § 37.056(c) (PURA). Staff maintains that Route 41 better satisfies the criteria of PURA.

II. EXCEPTIONS

A. Introduction and Summary

No exceptions.

¹ Proposal for Decision (Apr. 10, 2019) (PFD).

² *Id.* at 1-2.

³ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001–66.016 (PURA).

B. Procedural History

No exceptions.

C. Jurisdiction and Notice

No exceptions.

D. Issues Relating to the Application

i. Application and Route Adequacy

No exceptions.

ii. Need and Project Alternatives

No exceptions.

E. Route Selection

i. Overview

No exceptions.

ii. Adequacy of Existing Service and Need for Additional Service

No exceptions.

iii. Community Values

Although the PFD recommends that Route 320 be selected, it acknowledges that Routes 320 and 41 are identical, except for their second and third links, and therefore share many of the same advantages,⁴ as compared to Route 325 or Route 325 Modified.

⁴ PFD at 9.

iv. Structures: Transmitters, Airports, Airstrips, and Irrigation Systems

No exceptions.

v. Park and Recreational Areas

No exceptions.

vi. Historical, Cultural, and Aesthetic Values

No exceptions.

vii. Environmental Integrity

No exceptions.

viii. Probable Improvement of Service or Lowering of Costs to Consumers

No exceptions.

ix. Engineering Constraints

No exceptions.

x. Costs

No exceptions.

xi. Moderation of Impact on Affected Community and Landowners

As noted in the PFD, Route 320 is superior to Route 325 Modified as to the majority of relevant criteria.⁵ Route 41 shares many of these advantages and impacts considerably fewer habitable structures.⁶ While Plains Pipeline's proposed modification to Route 320 will bring the number of habitable structures within 500 feet of the centerline from 38 to 26,⁷ this is still a significantly greater number of habitable structures affected than the three impacted by Route 41.

⁵ *Id.* at 32.

⁶ Oncor/AEP Ex. 11 at Exhibit RJM-R-7.

⁷ PFD at 32.

xii. Use of Compatible ROWs, Paralleling of Existing ROWs, and Paralleling of Property Lines

No exceptions.

xiii. Prudent Avoidance

The PFD recognizes that 16 Texas Administrative Code (TAC) § 25.101(a)(3) does not distinguish between different categories of habitable structures and that the mobile homes, or “man camps,” that comprise 34 of the 38 structures are, under the rule,⁸ habitable structures.⁹ Yet, the PFD argues that the nature and purpose of the habitable structures should be taken into account, without citing to any provision in the rule to allow such or any prior guidance from the Commission that such a consideration would be advisable.¹⁰ Staff acknowledges that the nature of these structures might allow for their movement now or in the future, but the number of habitable structures as provided in the record and available for analysis should not be disregarded for features that are not given explicit consideration in the Commission’s rules.

Additionally, Staff excepts to the ALJs’ assumptions about the costs of Plains Pipeline’s proposed modification, and asks that the expected cost be included in the record for consideration by the Commission.

xiv. Alternative Routes or Facility Configurations

No exceptions.

F. Texas Parks and Wildlife Department

No exceptions.

G. Other Issues

No exceptions.

⁸ 16 Tex. Admin. Code § 25.101(a)(3) (TAC).

⁹ PFD at 34.

¹⁰ *Id.* at 34-35; *see generally* 16 TAC § 25.101.

H. Conclusion

Staff continues to support Route 41 as the route that best meets the requirements of PURA § 37.056(c)

I. Findings of Fact

Staff excepts to the findings of fact only to the extent that they are inconsistent with the exceptions that Staff has noted above.

J. Conclusions of Law

Staff excepts to the conclusions of law only to the extent that they are inconsistent with the exceptions that Staff has noted above.

K. Ordering Paragraphs

Staff excepts to the ordering paragraphs only to the extent that they are inconsistent with the exceptions that Staff has noted above.

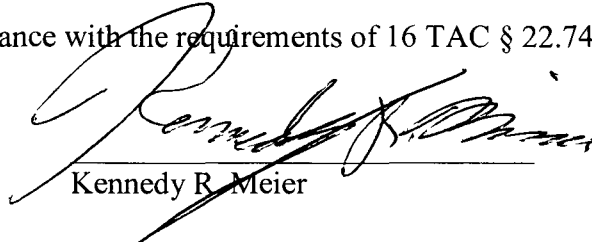
III.CONCLUSION

Staff respectfully requests that the Commission adopt Staff's exceptions to the PFD.

PUC DOCKET NO. 48785
SOAH DOCKET NO. 473-19-1265

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record in this proceeding on April 23, 2019 in accordance with the requirements of 16 TAC § 22.74.



Kennedy R. Meier